Supreme Court, U.S.
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No. 05-295

IN THE

Supreme Court of the United States

METROMEDIA ENERGY, INC.,

Petitioner,

v.

ENSERCH ENERGY SERVICES, INC.; TXU ENERGY COMPANY LLC; TXU ENERGY TRADING; TXU ENERGY SERVICES, N/K/A TXU ENERGY RETAIL COMPANY, LP; TXU JOHN DOES,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Should the Court grant certiorari to resolve a conflict of authority among the courts of appeals over the standard of review applicable to an arbitration award where a party claims that the arbitration panel exceeded its authority by straying beyond the scope of the parties' arbitration agreement and their submission of the issues for arbitration?

RULE 29.6 STATEMENT AND THE PARTIES TO THE PROCEEDING

Petitioner is Metromedia Energy, Inc. The petitioner has no parent company. No public company owns 10 percent or more of the stock of the petitioner. Respondents are Enserch Energy Services, Inc., TXU Energy Company LLC, TXU Energy Trading, TXU Energy Services, N/K/A TXU Energy Retail Company, LP, and TXU John Does.

TABLE OF CONTENTS

Page

QUESTION PRESENTED i

RULE 29.6 STATEMENT AND THE PARTIES TO THE PROCEEDING ii

TABLE OF CONTENTS iii

TABLE OF AUTHORITIES v

OPINIONS BELOW 1

JURISDICTION 1

RELEVANT STATUTORY PROVISIONS 1

STATEMENT 2

A. The Master Agreement and MME's Natural Gas Orders from TXU 2

B. The Arbitration Proceedings 3

C. The Governing Law 5

D. Proceedings in the District Court and the Third Circuit 8

REASONS FOR GRANTING THE WRIT 10

I. The Courts of Appeals Are Intractably Divided Over the Question Presented and Review in this Court Is Necessary and Warranted to Resolve the Conflict 12

II. The Decision of the Court Below Conflicts with Prior Decisions of this Court 18

III. The Conflict Among the Courts of Appeals Is Untenable, Given the Importance of the Question Presented, and this Case Presents an Ideal Vehicle to Resolve the Conflict 21

IV. Certiorari is Warranted Because the Decision of the Court Below Is Wrong on the Merits 23

CONCLUSION 23

TABLE OF AUTHORITIES

FEDERAL CASES

187 Concourse Associates v. Fishman, 399 F.3d 524 (2d Cir. 2005) 6, 13

AT&T Technologies, Inc. v. Communications Workers of Am, 475 U.S. 643 (1986) ..... *passim*

American Postal Workers v. Runyon, 185 F.3d 832 (7th Cir. 1999) 6, 15

Atkinson v. Sinclair Refining Co., 370 U.S. 238 (1962) 18

Bakery, Confectionary & Tobacco Workers Local Union Number 362-T v. Brown & Williamson Tobacco Corp., 971 F.2d 652 (11th Cir. 1992) 14

Boston & Maine Corp. v. Brotherhood of Maint. of Way Employees, 94 F.3d 15 (1st Cir. 1996) 16

Carpenters 46 N. Cal. Counties Conf. Bd. v. ZCON Builders, 96 F.3d 410 (9th Cir. 1996) 18

Champion Int'l Corp. v. United Paperworkers Int'l Union, 168 F.3d 725 (4th Cir. 1999) 17

Champion Int'l Corp. v. United Paperworkers Int'l Union, 779 F.2d 328 (6th Cir. 1985) 15

Coady v. Ashcraft & Gerel, 223 F.3d 1 (1st Cir. 2000) 17

Delta Queen Steamboat Co. v. District 2 Marine Engineers Beneficial Ass'n, 889 F.2d 599 (5th Cir. 1989) 14

Devine v. Levin, 739 F.2d 1567 (Fed. Cir. 1984) 14

Dorado Beach Hotel Corp. v. Union De Trabajadores De La Industria Gastronomica de Puerto Rico, 959 F.2d 2 (1st Cir. 1992) 6

Dow Corning Corp. v. Safety Nat'l Casualty Corp., 335 F.3d 742 (8th Cir. 2003) 17

E.E.O.C. v. Waffle House, Inc., 534 U.S. 279 (2002) 21

E.I. DuPont de Nemours & Co. v. Local 900, 968 F.2d 456 (5th Cir. 1992) 14

E.I. DuPont de Nemours & Co. v. Martinsville Nylon Employees Council Corp., No. 94-2222, 1996 U.S. App. LEXIS 3208 (4th Cir. 1996) 17

Executone Info. Sys., Inc. v. Davis, 26 F.3d 1314 (5th Cir. 1994) 13

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Flex-Foot, Inc. v. CRP, Inc., 238 F.3d 1362 (Fed. Cir. 2001) 15

Gateway Coal Co. v. Mine Workers, 414 U.S. 368 (1974) 5

GM Corp. v. Pamela Equities Corp., 146 F.3d 242 (5th Cir. 1998) 13

Howsam v. Dean Witter Reynolds, 537 U.S. 79 (2002) 5, 19

International Assoc. of Machinists & Aerospace Workers v. Tennessee Valley Auth., 155 F.3d 767 (6th Cir. 1998) 15

Iron Workers Local No. 272 v. Bowen, 624 F.2d 1255 (5th Cir. 1980) 14

JLM Indus., Inc. v. Knight-Nielsen SA, 387 F.3d 163 (2d Cir. 2004) 13

John Hancock Life Ins. Co. v. Wilson, 254 F.3d 48 (2d Cir. 2001) 14

John Morrell & Co. v. Local Union, 913 F.2d 544 (8th Cir. 1990) 6, 17

John Wiley & Sons, Inc. v. Livingston, 376 U.S. 543 (1964) 18

Kaplan v. First Options of Chicago, Inc., 19 F.3d 1503 (3d Cir. 1994) 16

KenAmerican Res., Inc. v. International Union of United Mine Workers of Am., 99 F.3d 1161 (D.C. Cir. 1996) 17

Local Union No. 898 v. XL Elec., Inc., 380 F.3d 868 (5th Cir. 2004) 13

Madison Hotel v. Hotel & Rest. Employees, Local 25, 144 F.3d 855 (D.C. Cir. 1998) 16

Matteson v. Ryder Sys. Inc., 99 F.3d 108 (3d Cir. 1996) 9, 15

Metromedia Energy, Inc. v. Enserch Energy Services, Inc., 409 F.3d 574 (3d Cir. 2005) ..... *passim*

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Monee Nursery & Landscaping Co., v. International Union of Operating Engineers, 348 F.3d 671 (7th Cir. 2003) 15

Moses H. Cone Mem'l Hosp. v. Mercury Const. Corp., 460 U.S. 1 (1983) 19

Pack Concrete, Inc. v. Cunningham, 866 F.2d 283 (9th Cir. 1988) 17

PaineWebber, Inc. v. Bybyk, 81 F.3d 1193 (2d Cir. 1996) 14

Refinery Employees Union v. Continental Oil Co., 268 F.2d 447 (5th Cir. 1959) 14

Richmond, Fredericksburg & Potomac RR. Co. v. Transportation Communications Int'l Union, 973 F.2d 276 (4th Cir. 1992) 16

Roadway Package Sys., Inc. v. Kayser, 257 F.3d 287 (3d Cir. 2001) 9, 15

Sarhank Group v. Oracle Corp., 404 F.3d 657 (2d Cir. 2005) 13

Smith v. Currency Trading Int'l Inc., No. 98-1311, 1999 U.S. App. LEXIS 18182 (10th Cir. 1999) 13

Specht v. Netscape Communications Corp., 306 F.3d 17 (2d Cir. 2002) 14

Steelworkers v. American Mfg. Co., 363 U.S. 564 (1960) 19

Steelworkers v. Enterprise Wheel & Car Corp., 363 U.S. 593 (1960) 19

Steelworkers v. Warrior & Gulf Navigation Co., 363 U.S. 574 (1960) 5, 19

Volt Info. Sciences v. Board of Trustees, 489 U.S. 468 (1989) 21

Volvo GM Heavy Truck Corp. v. International Union, 914 F.2d 1493 (4th Cir. 1990) 16

FEDERAL STATUTES

9 U.S.C. § 10(a) ..... *passim*

9 U.S.C. § 11(b) ..... *passim*

28 U.S.C. § 1254(1) 1

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit, Pet. App. 1a, is published at 409 F.3d 574. The opinion of the United States District Court for the District of New Jersey, Pet. App. 21a, is unpublished. The opinion of the arbitration panel is reprinted at Pet. App. 30a.

JURISDICTION

The court of appeals entered its judgment on June 2, 2005. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

RELEVANT STATUTORY PROVISIONS

Section 10(a) of the Federal Arbitration Act, 9 U.S.C. § 10(a), provides, in relevant part:

> In any of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of a party to the arbitration . . . [w]here the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

Section 11(b) of the Federal Arbitration Act, 9 U.S.C. § 11(b), provides, in relevant part:

> In either of the following cases the United States court in and for the district wherein the award was made may make an order modifying or correcting the award upon the application of any party to the arbitration . . . [w]here the arbitrators have awarded upon a matter not submitted to them . . . .